IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.539 OF 2005
IN
SUMMARY SUIT NO.1578 OF 2005

Linlite Sales Corporation ..Plaintiffs

Vs.

Gopal Krishna Prints & Anr. ..Defendants

Mr.M.J.Devani for the plaintiffs

Mr.D.M.Gopani for the defendants

CORAM : S.U.KAMDAR, J
DATED : 13TH FEBRUARY, 2006

P.C.:

1. The present suit is filed for the recovery of sum of Rs.4,62,814.75 in respect of 12 invoices. The 12 invoices are annexed at Ex.A collectively. to the present suit. The defence raised by the defendant in affidavit in reply is that each of the aforesaid amount has been paid by cheque and in para 7 details thereof are given. He has also drawn my attention to each of the invoices in which plaintiffs have acknowledged by endorsing the cheque number and amount received in respect of each of the invoices. However, the learned counsel

for the plaintiffs states that though cheques are received they are not received in respect of suit invoices but are received in respect of other payments and present invoices are still outstanding. He further states that the endorsement of the cheque number and on the invoices is erroneous and by mistake. In my view, if that is so, it raises triable issues. It requires trial. Unconditional leave to defend is granted.

2. Suit to be transferred to the list of Commercial Causes. Written Statement or points of defence to be filed within four weeks from today. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.